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8 **UNITED STATES DISTRICT COURT**
9 **SOUTHERN DISTRICT OF CALIFORNIA**
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11 THO LE,
12 Inmate Booking No. 16147-097,
13 Plaintiff,

14 vs.

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16 SIX UNKNOWN NAMES AGENTS;
17 BARACK OBAMA,
18 Defendants.

Civil No. 13cv2594 LAB (NLS)

**ORDER DISMISSING CIVIL
ACTION WITHOUT PREJUDICE
FOR FAILING TO PAY
FILING FEES REQUIRED
BY 28 U.S.C. § 1914(a) AND/OR
FAILING TO MOVE TO
PROCEED *IN FORMA PAUPERIS*
PURSUANT TO
28 U.S.C. § 1915(a)**

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20 Plaintiff, currently detained at the Etowah County Jail in Gadsden, Alabama, and
21 proceeding pro se, filed an incomprehensible one-page complaint entitled “Civil Rights
22 Action with the Writ of Summons and Complaint” “under 42 U.S.C. § 1983” (ECF Doc.
23 No. 1) on October 25, 2013.

24 **I. FAILURE TO PAY FILING FEE OR REQUEST IFP STATUS**

25 All parties instituting any civil action, suit or proceeding in any district court of
26 the United States, except an application for writ of habeas corpus, must pay a filing fee
27 of \$400. *See* 28 U.S.C. § 1914(a). An action may proceed despite a party’s failure to
28 pay this filing fee only if the party is granted leave to proceed *in forma pauperis* (“IFP”)

1 pursuant to 28 U.S.C. § 1915(a).¹ *See Andrews v. Cervantes*, 493 F.3d 1047, 1051 (9th
2 Cir. 2007); *Rodriguez v. Cook*, 169 F.3d 1176, 1177 (9th Cir. 1999).

3 Plaintiff has not prepaid the \$400 in filing and administrative fees required to
4 commence a civil action, nor has he submitted a Motion to Proceed IFP pursuant to 28
5 U.S.C. § 1915(a). Therefore, the case cannot yet proceed. *See* 28 U.S.C. § 1914(a);
6 *Andrews*, 493 F.3d at 1051.

7 **II. CONCLUSION AND ORDER**

8 For the reasons set forth above, the Court hereby:

9 (1) **DISMISSES** this action sua sponte without prejudice for failing to pay the
10 \$400 civil filing and administrative fee or submit a Motion to Proceed IFP pursuant to
11 28 U.S.C. § 1914(a) and § 1915(a); and

12 (2) **GRANTS** Plaintiff **forty five (45)** days leave from the date this Order is
13 filed to: (a) prepay the entire \$400 civil filing and administrative fee in full; **or**
14 (b) complete and file a Motion to Proceed IFP which includes a certified copy of his trust
15 account statement for the 6-month period preceding the filing of his Complaint. *See* 28
16 U.S.C. § 1915(a)(2); S.D. CAL. CIVLR 3.2(b).²

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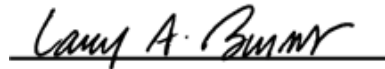
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21 ¹ In addition to the \$350 statutory fee, all parties filing civil actions on or after May 1,
22 2013, must pay an additional administrative fee of \$50. *See* 28 U.S.C. § 1914(a), (b); Judicial
23 Conference Schedule of Fees, District Court Misc. Fee Schedule, eff. May 1, 2013. However,
Id.

24 ² Plaintiff is cautioned that if he chooses to proceed further with this action either by
25 paying the full \$400 in civil and administrative fees required by 28 U.S.C. § 1914(a), or moving
26 to proceed IFP, his Complaint, which is currently comprised of a single page of nonsensical legal
27 jargon seeking “one hundred million[] dollars” in damages against unidentified “agents” and the
28 President of the United States, will be screened and immediately dismissed as frivolous pursuant
to 28 U.S.C. § 1915A(b) and 28 U.S.C. § 1915(e)(2)(b). *See Lopez v. Smith*, 203 F.3d 1122,
1126-27 (9th Cir. 2000) (en banc) (noting that 28 U.S.C. § 1915(e) “not only permits but
requires” the court to sua sponte dismiss an *in forma pauperis* complaint that fails to state a
claim); *see also Rhodes v. Robinson*, 621 F.3d 1002, 1004 (9th Cir. 2010) (discussing sua sponte
screening required by 28 U.S.C. § 1915A(b) of all prisoner complaints).

1 **IT IS FURTHER ORDERED** that the Clerk of the Court shall provide Plaintiff
2 with this Court's approved form "Motion and Declaration in Support of Motion to
3 Proceed *In Forma Pauperis*." If Plaintiff fails to either prepay the \$400 civil filing fee
4 or complete and submit the enclosed Motion to Proceed IFP within that time, this action
5 shall remain dismissed without prejudice and without further Order of the Court.

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7 DATED: November 8, 2013

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9 **HONORABLE LARRY ALAN BURNS**
10 United States District Judge
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